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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,772	04/02/2004	Daisuke Yahata	360842009711	9959

7590 08/03/2007  
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EXAMINER

TENTONI, LEO B

ART UNIT PAPER NUMBER

1732

MAIL DATE DELIVERY MODE

08/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,772	<b>Applicant(s)</b> YAHATA ET AL.	
	<b>Examiner</b> Leo B. Tentoni	<b>Art Unit</b> 1732	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>04022004</u> . | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602.

The application number of the parent application is missing.

***Specification***

2. The disclosure is objected to because of the following informalities: On page 1, the status of the parent application should be updated.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 25 and 27-29 are rejected under 35 U.S.C. 102(a) as being anticipated by Okawa et al (JP 2002-105752 A).

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Okawa et al (see the entire document, in particular, the English-language translation) teaches a process of making a multifilament crimped yarn from an aliphatic polyester as claimed. Okawa et al does not explicitly teach the claimed range of breaking strength; however, this is inherent in Okawa et al principally because Okawa et al teaches using an aliphatic polyester (having a melting point equal to or higher than 130°C) and crimping with a crimping apparatus utilizing heated air, Okawa et al teaches a crimp elongation rate that meets the claimed range and thus, one would expect the crimped yarn to have a breaking strength that meets the claimed range.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered

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therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 25 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okawa et al (JP 2002-105752 A) in combination with Uda et al (JP 07-011516 A).

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Okawa et al (see the entire document, in particular, the English-language translation) teaches a process of making a multifilament crimped yarn from an aliphatic polyester as claimed. Okawa et al does not explicitly teach the claimed range of breaking strength; however, this is taught by Uda et al (see the entire document, in particular, the English-language translation (page 2)) and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Okawa et al in view of Uda et al principally in order to manufacture crimped yarn having desired characteristics and/or properties (e.g., excellent crimp tendency and elastic recovery).

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okawa et al (JP 2002-105752 A) in combination with Uda et al (JP 07-011516 A) as applied to claims 25 and 27-29 above, and further in view of Nakamura et al (U.S. Patent 5,348,700 A).

Nakamura et al (see the entire document, in particular, col. 1, lines 5-12; col. 9, lines 10-15) teaches a process of making multifilament yarn from an aliphatic polyester including a two-step drawing process, and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Okawa et al in view of Nakamura et al

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principally in order to manufacture yarn having desired strength.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Leo B. Tentoni*

Leo B. Tentoni  
Primary Examiner  
Art Unit 1732

lbt